

Honorable Brian D Lynch
CHAPTER: 13
HEARING DATE: 02/12/2020
HEARING TIME: 1:30 PM
RESPONSE DATE: 02/05/2020

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON (SEATTLE)**

In re
BRIDGETTE RICHARDSON BRITTAIN,

Debtor(s).

Case No. 19-44022-BDL
Chapter 13
OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN

PHH Mortgage Corporation ¹ ("Creditor"), hereby objects to confirmation of the Chapter 13 Plan filed by Debtor in the above-referenced matter. The basis of the objection is stated below.

I. STATEMENT OF FACTS

1. On or about September 25, 2009, Debtor, executed and delivered to Lender a Promissory Note in the original principal amount of \$198,250.00 (the "Note"). The Note is secured by a Deed of Trust encumbering real property commonly described as 3140, Bonanza Dr. Ne, Lacey, WA 98516 (the "Property"), which is more fully described in the Deed of Trust.

2. Subsequently, all right, title and interest under the Note and Deed of Trust was assigned to Creditor.

3. On or about December 19, 2019, Debtor filed a Chapter 13 bankruptcy petition.

¹ This Objection to Confirmation of Chapter 13 Plan shall not constitute a waiver of the within party's right to receive service pursuant to Fed. R. Civ. P. 4, made applicable to this proceeding by Fed. R. Bankr. P. 7004, notwithstanding Aldridge Pite, LLP's participation in this proceeding. Moreover, the within party does not authorize Aldridge Pite, LLP, either expressly or impliedly through Aldridge Pite, LLP's participation in this proceeding, to act as its agent for purposes of service under Fed. R. Bankr. P. 7004.

1 Debtor's Chapter 13 Plan ("Plan") provides for payments to the Trustee in the amount of \$1,569.23
2 biweekly for 36 months. The Plan provides for the Trustee to disburse continuing monthly payments
3 on Creditor's Claim. The Plan proposes to cure arrears owed to Creditor in the amount of
4 \$89,409.14.

5 4. The pre-petition arrearage on Creditor's secured claim is estimated to be \$123,413.78.
6 The arrears will be reflected on Creditor's Proof of Claim.

7 II. ARGUMENT

8 Pursuant to 11 U.S.C. 1322(b)(5) and 1325(a)(5)(B)(ii), a plan must provide for the cure of
9 arrears within a reasonable time and provide for continuing payments on a secured claim where the
10 last payment is due after the date which the final plan payment is due. Arrears are understated in the
11 Plan. Arrears owed on Creditor's claim are estimated to be \$123,413.78, but the Plan provides for
12 arrears of only \$89,409.14. Debtor will have to amend the Plan to increase payments to Creditor to
13 approximately \$2,057.00 monthly in order to cure pre-petition arrears over 60 months. As proposed,
14 the Plan fails to satisfy 11 U.S.C. 1322(b)(5) and 1325(a)(5)(B)(ii), and the plan is not feasible.
15 Confirmation must be denied.

16
17 WHEREFORE, Creditor respectfully requests:

- 18 i) That confirmation of the Debtor's Chapter 13 Plan be denied and Debtor be ordered
19 to file a Motion to Confirm Amended Plan within 14 days;
20 ii) That the Plan be amended to provide for the cure of arrears owed to Creditor within a
21 period not exceeding 60 months; and
22 iii) For such other and further relief as this Court deems just and proper.

23
24 Respectfully submitted,

25 Dated: January 22, 2020

ALDRIDGE PITE, LLP

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28 LESLEY D. BOHLEBER, WSBA #49150
Attorneys for PHH MORTGAGE
CORPORATION

1 **CERTIFICATE OF SERVICE**

2 I, Shannon Kilgore, am an employee of Aldridge Pite, LLP, and I am over the age of
3 eighteen (18) years, and not a party to the above referenced case. My business address is 4375
4 Jutland Drive, Suite 200; P.O. Box 17933, San Diego, CA 92117-0933.

5 On January 23, 2020, I served the foregoing OBJECTION TO CONFIRMATION OF
6 CHAPTER 13 PLAN on the following individuals by depositing true copies thereof in the United
7 States mail, enclosed in a sealed envelope, with postage paid, addressed as follows:

8 **DEBTOR(S)**

9
10 Bridgette Richardson Brittain
11 3140 Bonanza Dr. NE
12 Olympia, WA 98516

13 On January 23, 2020, I served the foregoing OBJECTION TO CONFIRMATION OF
14 CHAPTER 13 PLAN on the following individuals by electronic means through the Court's ECF
15 service:

16 **DEBTOR(S) ATTORNEY**

17 Ellen Ann Brown
18 Brown & Seelye PLLC
19 744 S Fawcett Ave
Tacoma, WA 98402

20 **CHAPTER 13 TRUSTEE**

21 Michael G. Malaier
22 2122 Commerce Street
Tacoma, WA 98402
23 ecfcomputer@chapter13tacoma.org

24 I certify under penalty of perjury that the foregoing is true and correct.

25 Dated: January 23, 2020

/s/ Shannon Kilgore
SHANNON KILGORE